

AMENDED IN SENATE JUNE 30, 1999
AMENDED IN ASSEMBLY MAY 13, 1999
AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 317

Introduced by Assembly Member Floyd

February 8, 1999

An act to *amend Sections 19818, 19830A, 19844, 19851.5, 19950.1, and 19950.2 of, to amend and renumber Sections 19846A and 19852A, 19852A, and 19872A of, and to add Sections 19823.1 and 19861.5 to, and to add and repeal Section 19919 of, the Business and Professions Code, relating to gambling, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 317, as amended, Floyd. Gambling Control Act: licensure: operation of gambling establishments.

(1) Existing law contained in the Gambling Control Act establishes, as of January 1, 1999, the California Gambling Control Commission, with jurisdiction over the operation of, and supervision over, gambling establishments in the state, and over all persons having to do with the operations of those gambling establishments. Existing law requires every person who, by regulation or statute, is required to hold a license under these provisions to obtain the license prior to engaging in the activity or occupying the position for which the license

is required, and requires every person who, by order of the commission, is required to apply for a license or a finding of suitability to file the application within 30 calendar days after receipt of the order.

This bill would provide that until the Governor declares by executive order that the commission is prepared to assume its responsibilities and exercise the powers conferred by the Gambling Control Act, the Division of Gambling Control shall have the authority to amend, repeal, and enforce specified interim regulations. The bill would also provide that certain regulations of the commission would be exempt from specified procedural requirements if adopted within 90 days after this executive order is issued.

The bill would provide that, in addition to the other powers and duties specified by the act, the commission may grant, deny, suspend, or impose conditions, restrictions, or limitations on any license, permit, or approval provided for in the act, and may reinstate any license that has been revoked, suspended, or terminated.

The bill would authorize the commission to adopt regulations providing for the temporary issuance of key employee licenses and work permits. The bill would provide that this provision shall become inoperative on January 1, 2003, and that all temporary licenses or permits granted thereunder shall then expire, unless a later enacted statute extends or deletes this date. ~~This bill would also delete an obsolete reference to the operative date of these provisions.~~

The bill would also authorize the commission to issue temporary licenses to own a gambling establishment to the heir of a licensee, to a beneficiary or trustee of a trust in which an ownership interest in a gambling establishment is held, or to a purchaser of a gambling establishment. The bill would provide that a temporary license may be issued only for the purpose of operating a gambling establishment owned by the previous licensee, that the commission may attach limits and conditions on temporary licenses and may summarily revoke temporary licenses, and that the issuance of a temporary license does not create any right whatsoever to the ultimate issuance of an owner's license, nor does it imply a presumption of suitability for such a license.



(2) Existing law provides that the division or commission shall not deny a gambling license to a private gambling establishment solely because it is not open to the public, provided that the establishment is located in a jurisdiction that authorizes private clubs only and was in operation and in compliance with local law as of a specified date. Existing law also provides that these clubs may be licensed to operate only until July 1, 2000, or until a change in ownership, and thereafter only if the local jurisdiction adopts a enabling ordinance in an election as specified.

This bill would provide that if the gambling ordinance of a county provides for the operation of gambling establishments as private clubs, and this ordinance was adopted by the electors in a county-wide election, the election requirement is deemed satisfied and a gambling establishment in that county may be licensed to operated as a private club so long as the current license holder owns and operates the gambling establishment and it otherwise meets the requirements of the act.

(3) Existing law requires every key employee of a gambling establishment, as defined, to apply for and obtain a key employee license.

This bill would provide that any person licensed as a key employee may transfer that license to another gambling establishment upon request by providing the division with notice of his or her intent to transfer, and notice of the new employer's intent to hire the key employee, and if the division does not object to the transfer within 30 days, that the key employee license shall become attached to the license of the new employer.

(4) Existing law requires the commission to consider denying a gambling license for certain specified reasons, including if the issuance of the license would tend unduly to create law enforcement problems in a local jurisdiction other than that which has regulatory jurisdiction over the applicant's premises.

This bill would instead require the commission to deny a gambling license for those reasons and would ~~would delete an obsolete reference to the operative date of these provisions~~ also require the commission to deny a license if it determines

that there is an over-concentration of gambling establishments or gambling tables in that jurisdiction.

(5) Existing law generally provides that no local jurisdiction may adopt a new ordinance authorizing gambling, and no local jurisdiction may amend an existing ordinance to expand gambling, until January 1, 2001, or in the case of Alameda, Contra Costa, Los Angeles, San Mateo, and Santa Clara counties, until January 1, 2003. Existing law also provides that after this date, any amendment to a gambling ordinance which would result in an expansion of gaming, as defined, shall not be valid unless submitted to and adopted by a majority of the voters of the city, county, or city and county. Existing law exempts gambling establishments with 5 or fewer tables from this requirement.

This bill would extend the operative date of the restrictions on the expansion of gambling in the 5 counties specified above from January 1, 2003, to January 1, 2005. The bill would limit the exemption applicable to gambling establishments with 5 or fewer tables to an increase of up to 3 additional tables.

(6) Existing law specifies certain conditions relative to the operation of a gambling establishment.

This bill would authorize the owner of a gambling establishment to temporarily close the establishment or limit the hours of operation, but would require notice thereof to be provided to the Division of Gambling Control in the Department of Justice. This bill would repeal these provisions on January 1, 2003, unless a later enacted statute extends or deletes this date.

(7) Existing law provides that if the commission denies a license to an individual owner of any security issued by a corporation that applies for or holds a license to own a gambling establishment, that the owner shall offer and the corporation shall purchase the security for cash in an amount not greater than fair market value with 30 calendar days after the date of the offer.

This bill would provide that the corporation shall purchase the security so offered within 30 calendar days after the date of the offer for book value in cash as provided for in the articles of incorporation or the bylaws, but in no event for an amount greater than fair market value. The bill would permit the

purchase of the security within a period of up to 90 calendar days if the book value of the security or its fair market value exceeds \$1,000,000.

(8) This bill would delete or correct certain obsolete references to operative and effective dates, revise erroneous references to the board to instead refer to the commission, and make other technical changes.

(9) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Notwithstanding any other provision of*
2 *law, the Division of Gambling Control shall have the*
3 *authority to amend, repeal, and enforce regulations*
4 *adopted pursuant to subdivision (b) of the former Section*
5 *19830 of the Business and Professions Code, until the*
6 *Governor, by executive order, declares that the*
7 *California Gambling Control Commission is prepared to*
8 *assume the responsibilities and exercise the powers*
9 *conferred by Sections 4 to 52, inclusive, of Chapter 867 of*
10 *the Statutes of 1997.*

11 SEC. 2. *Section 19818 of the Business and Professions*
12 *Code is amended to read:*

13 19818. The executive secretary of the—~~board~~
14 *commission may appoint no more than two attorneys as*
15 *counsel to the—~~board~~ commission. However, in lieu of*
16 *representation by the attorneys appointed pursuant to*
17 *this section, the—~~board~~ commission may request*
18 *representation by the Attorney General in any*
19 *proceeding before any court.*

20 SEC. 3. *Section 19823.1 is added to the Business and*
21 *Professions Code, to read:*

22 19823.1. (a) *In addition to the other powers and*
23 *duties specified in this chapter, the commission may*
24 *grant, deny, revoke, suspend, or impose conditions,*
25 *restrictions, or limitations on any license, permit, or*
26 *approval provided for in this chapter.*

1 (b) The commission may reinstate a license to own a
2 gambling establishment, a key employee license, or any
3 other license provided for under this chapter that has
4 been revoked, suspended, or terminated.

5 (c) The commission shall adopt regulations to
6 implement this section.

7 SEC. 4. Section 19830A of the Business and
8 Professions Code is amended to read:

9 19830A. (a) The commission may adopt regulations
10 for the administration and enforcement of this chapter.
11 To the extent appropriate, regulations of the commission
12 and the division shall take into consideration the
13 operational differences of large and small establishments.

14 (b) Subject to subdivision (d), Chapter 3.5
15 (commencing with Section 11340) of Part 1 of Division 3
16 of Title 2 of the Government Code does not apply to the
17 following regulations of the commission, if adopted
18 within 90 days after the ~~effective date of this chapter~~
19 Governor, by executive order, declares that the
20 California Gambling Control Commission is prepared to
21 assume the responsibilities and exercise the powers
22 conferred by Sections 4 to 52, inclusive, of Chapter 867 of
23 the Statutes of 1997:

24 (1) Regulations described in subdivisions (a), (b), (e),
25 (g), (h), (i) to (n), inclusive, (p), and (q) of Section
26 19834A.

27 (2) Regulations adopted for the purpose of
28 implementing Section 62 of the act that enacted this
29 chapter.

30 (c) Any regulation adopted pursuant to subdivision
31 (b) shall be filed with the Secretary of State and shall be
32 effective immediately upon that filing.

33 (d) Except as otherwise provided in this subdivision,
34 no regulation adopted by the division pursuant to
35 subdivision (b) of former Section 19830 shall be valid after
36 ~~September 1, 1998 the issuance of the executive order~~
37 ~~described in subdivision (b), unless the regulation has~~
38 ~~been~~ is subsequently readopted by the ~~division~~
39 commission in accordance with Chapter 3.5
40 (commencing with Section 11340) of Part 1 of Division 3

1 of Title 2 of the Government Code, subject to all of the
2 following:

3 (1) This subdivision does not apply to a regulation that
4 is exempted from Article 5 (commencing with Section
5 11346) of Chapter 3.5 of Division 3 of Title 2 of the
6 Government Code, by operation of subdivision (a) of
7 Section 11346.1 of the Government Code.

8 (2) If, prior to September 1, 1998, the division—~~has~~
9 mailed a notice described in Section 11346.4 of the
10 Government Code with respect to a regulation adopted
11 pursuant to subdivision (b) *of former Section 19830*, the
12 regulation shall not cease to be effective pursuant to this
13 subdivision until the earlier of one of the following events:

14 (A) The readopted regulation is filed with the
15 Secretary of State pursuant to subdivision (a) of Section
16 11349.3, or subdivision (e) of Section 11349.5, of the
17 Government Code.

18 (B) The readopted regulation has been disapproved
19 by the Office of Administrative Law and the time within
20 which a request for review may be filed pursuant to
21 Section 11349.5 of the Government Code has expired.

22 (C) The readopted regulation is disapproved by the
23 Office of Administrative Law, and the Governor
24 transmits a decision pursuant to subdivision (c) of Section
25 11349.5 of the Government Code affirming the
26 disapproval.

27 *SEC. 5. Section 19844 of the Business and Professions*
28 *Code is amended to read:*

29 19844. (a) Every key employee shall apply for and
30 obtain a key employee license.

31 (b) Licenses issued to key employees shall be for
32 specified positions only, and those positions shall be
33 enumerated in the endorsement described in subdivision
34 (b) of Section 19840.5.

35 (c) No person may be issued a key employee license
36 unless the person would qualify for a state gambling
37 license.

38 (d) No person may be issued a key employee license
39 unless the person is a resident of this state.

1 (e) Any person licensed as a key employee pursuant to
2 Section 19840 may transfer the key employee license to
3 another gambling establishment upon his or her request
4 and the request of that gambling establishment. To
5 effectuate a transfer, the key employee shall provide the
6 division with written notice of his or her intent to transfer
7 the license and the new employer shall submit written
8 notice of its intent to hire that person as a key employee.
9 If the division does not object to the transfer of the key
10 employee license within 30 days after the receipt of
11 written notice from both the employee and employer,
12 the key employee license shall become attached to the
13 license of the new employer.

14 SEC. 6. Section 19846A of the Business and
15 Professions Code is amended and renumbered to read:

16 19846. (a) Every person who, by statute or
17 regulation, is required to hold a state license shall obtain
18 the license prior to engaging in the activity or occupying
19 the position with respect to which the license is required.
20 Every person who, by order of the commission, is
21 required to apply for a gambling license or a finding of
22 suitability shall file the application within 30 calendar
23 days after receipt of the order.

24 (b) The commission may adopt regulations providing
25 for the temporary issuance of key employee licenses and
26 work permits. This subdivision shall become inoperative
27 on January 1, 2003, and all temporary licenses or permits
28 granted thereunder shall then expire, unless a later
29 enacted statute, that is enacted before January 1, 2003,
30 deletes or extends that date.

31 ~~SEC. 2.—~~

32 SEC. 7. Section 19851.5 of the Business and
33 Professions Code is amended to read:

34 19851.5. (a) Notwithstanding subdivision (i) of
35 Section 19801, the division or commission shall not deny
36 a license to a gambling establishment solely because it is
37 not open to the public, provided that all of the following
38 are true: ~~(a) the~~

39 (1) The gambling establishment is situated in a local
40 jurisdiction that has an ordinance allowing only private

clubs, and the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and met all applicable state and local gaming registration requirements; ~~(b) the~~.

(2) The gambling establishment consists of no more than five gaming tables; ~~(c) videotaped~~.

(3) Videotaped recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed circuit television cameras, and these tapes are retained for a period of 30 days and are made available for review by the division or commission upon request; ~~and (d) the~~.

(4) The gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997.

A gambling establishment meeting these criteria, in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until July 1, 2000, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19950.1 and 19950.2, authorizing the operation of gambling establishments that are open to the public. The commission shall adopt regulations implementing this section.

(b) Notwithstanding subdivision (i) of Section 19801, if the gambling ordinance of a county provides for the operation of gambling establishments as private clubs, and this ordinance was adopted by the electors thereof in a county-wide election, then the election requirement contained in subdivision (a) shall be deemed satisfied and a gambling establishment located in that county may be licensed to operate as a private club gambling establishment so long as the current license holder owns and operates the club and provided that it otherwise meets all the requirements of this chapter.

1 SEC. 8. Section 19852A of the Business and
2 Professions Code is amended and renumbered to read:

3 19852. (a) In addition to other grounds stated in this
4 chapter, the commission shall deny a gambling license for
5 any of the following reasons:

6 (1) If issuance of the license with respect to the
7 proposed gambling establishment or expansion would
8 tend unduly to create law enforcement problems in a city,
9 county, or city and county other than the city, county, or
10 city and county that has regulatory jurisdiction over the
11 applicant's premises.

12 (2) If an applicant fails to conduct an economic
13 feasibility study that demonstrates to the satisfaction of
14 the commission that the proposed gambling
15 establishment will be economically viable, *that there is*
16 *not an over-concentration of gambling establishments or*
17 *gambling tables in that jurisdiction*, and that the owners
18 have sufficient resources to make the gambling
19 establishment successful. The commission shall hold a
20 public hearing for the purpose of reviewing the feasibility
21 study. All papers, studies, projections, pro formas, and
22 other materials filed with the commission pursuant to an
23 economic feasibility study are public records and shall be
24 disclosed to all interested parties.

25 (3) If issuance of the license is sought in respect to a
26 new gambling establishment, or the expansion of an
27 existing gambling establishment, that is to be located or
28 is located near an existing school, an existing building
29 used primarily as a place of worship, an existing
30 playground or other area of juvenile congregation, an
31 existing hospital, convalescence facility, or near another
32 similarly unsuitable area, as determined by regulation of
33 the commission, which is located in a city, county, or city
34 and county other than the city, county, or city and county
35 that has regulatory jurisdiction over the applicant's
36 gambling premises.

37 (b) For the purposes of this section, "expansion"
38 means an increase of 25 percent or more in the number
39 of authorized gambling tables in a gambling
40 establishment, based on the number of gambling tables

1 for which a license was initially issued pursuant to this
2 chapter.

3 ~~SEC. 3.—~~

4 *SEC. 9. Section 19861.5 is added to the Business and*
5 *Professions Code, to read:*

6 *19861.5. (a) The commission may issue a temporary*
7 *license to own a gambling establishment to any applicant*
8 *listed in subdivision (b) after determining that the*
9 *applicant is not disqualified pursuant to Section 19850A.*
10 *The commission may attach limits and conditions on*
11 *temporary licenses issued pursuant to this section as it*
12 *deems necessary, and may summarily revoke a*
13 *temporary license if subsequent information indicates*
14 *that the temporary licensee is unsuitable to be licensed,*
15 *if the licensee violates any provision of this chapter or of*
16 *Chapter 10 (commencing with Section 330) of the Penal*
17 *Code, or if the licensee fails to comply with any limitation*
18 *or condition attached to the license.*

19 *(b) A temporary license may be issued only for the*
20 *purpose of operating a gambling establishment owned by*
21 *the previous licensee, and may be issued only to an heir*
22 *of the previous licensee, to a beneficiary or trustee of a*
23 *trust in which an ownership interest in the gambling*
24 *establishment is held, or to a purchaser of an ownership*
25 *interest in the existing gambling establishment.*

26 *(c) The issuance of a temporary license does not create*
27 *any right whatsoever to the ultimate issuance of a state*
28 *license to own a gambling establishment, nor does it*
29 *imply a presumption of suitability for that license.*

30 *SEC. 10. Section 19872A of the Business and*
31 *Professions Code is amended and renumbered to read:*

32 ~~19872A.~~

33 *19872. (a) If at any time the commission denies a*
34 *license to an individual owner of any security issued by a*
35 *corporation that applies for or holds an owner license, the*
36 *owner of the security shall immediately offer the security*
37 *to the issuing corporation for purchase. The corporation*
38 *shall purchase the security so offered, within 30 calendar*
39 *days after the date of the offer for book value in cash—in*
40 *as provided for in the articles of incorporation or the*

1 *bylaws, but in no event for an amount—~~not~~ greater than*
2 *fair market value, ~~within 30 calendar days after the date~~*
3 *~~of the offer.~~ If the book value or the fair market value of*
4 *the security exceeds one million dollars (\$1,000,000), the*
5 *commission may allow the issuing corporation a period of*
6 *not to exceed 90 calendar days within which to purchase*
7 *the security.*

8 (b) Beginning upon the date when the division serves
9 notice of the denial upon the corporation, it is unlawful
10 for the denied security owner to do any of the following:

11 (1) Receive any dividend or interest upon any security
12 described in subdivision (a).

13 (2) Exercise, directly or through any trustee or
14 nominee, any voting right conferred by any security
15 described in subdivision (a).

16 (3) Receive any remuneration in any form from the
17 corporation for services rendered or for any other
18 purpose.

19 (c) Every security issued by a corporate owner
20 licensee shall bear a statement, on both sides of the
21 certificate evidencing the security, of the restrictions
22 imposed by this section.

23 (d) This section shall become operative on the
24 occurrence of one of the events specified in Section 66 of
25 the act that added this section to the Business and
26 Professions Code.

27 *SEC. 11.* Section 19919 is added to the Business and
28 Professions Code, to read:

29 19919. (a) The owner of a gambling establishment
30 may temporarily close the establishment or limit the
31 hours of operation but shall provide notice to the division
32 of the temporary closure or the limited operation.

33 (b) This section shall remain in effect only until
34 January 1, 2003, and as of that date is repealed, unless a
35 later enacted statute, that is enacted before January 1,
36 2003, deletes or extends that date.

37 *SEC. 12.* Section 19950.1 of the Business and
38 Professions Code is amended to read:

39 19950.1. (a) On or after the effective date of this
40 chapter, any amendment to any ordinance that would

1 result in an expansion of gambling in the city, county, or
 2 city and county, shall not be valid unless the amendment
 3 is submitted for approval to the voters of the city, county,
 4 or city and county, and is approved by a majority of the
 5 electors voting thereon. An ordinance may be amended
 6 without the approval of the electors one time on or after
 7 the effective date of this chapter to expand gambling by
 8 a change that results in an increase of less than 25 percent
 9 with respect to any of the matters set forth in paragraphs
 10 (1), (2), (3), (5), and (6) of subdivision (b). Thereafter,
 11 any additional expansion shall be approved by a majority
 12 of the electors voting thereon. This subdivision does not
 13 apply to a licensed gambling establishment ~~with that~~
 14 *claimed the operation of five or fewer tables in its initial*
 15 *application, provided that no more than three tables are*
 16 *added.*

17 (b) For the purposes of this section, “expansion of
 18 gambling” means, when compared to that authorized on
 19 January 1, 1996, or under an ordinance adopted pursuant
 20 to subdivision (a) of Section 19851, whichever is the lesser
 21 number, a change that results in any of the following:

22 (1) An increase of 25 percent or more in the number
 23 of gambling tables in the city, county, or city and county.

24 (2) An increase of 25 percent or more in the number
 25 of licensed card rooms in the city, county, or city and
 26 county.

27 (3) An increase of 25 percent or more in the number
 28 of gambling tables that may be operated in a gambling
 29 establishment in the city, county, or city and county.

30 (4) The authorization of any additional form of
 31 gambling, other than card games, that may be legally
 32 played in this state, to be played at a gambling
 33 establishment in the city, county, or city and county.

34 (5) An increase of 25 percent or more in the hours of
 35 operation of a gambling establishment in the city, county,
 36 or city and county.

37 (6) An increase of 25 percent or more in the maximum
 38 amount permitted to be wagered in a game.

39 (c) The measure to expand gambling shall appear on
 40 the ballot in substantially the following form:

1
2 “Shall gambling be expanded in _____ beyond that
3 operated or authorized on January 1, 1996, by _____
4 (describe expansion)? Yes _____ No _____.”
5

6 *SEC. 13. Section 19950.2 of the Business and*
7 *Professions Code is amended to read:*

8 19950.2. (a) On and after the effective date of this
9 chapter, neither the governing body nor the electors of
10 a county, city, or city and county that has not authorized
11 legal gaming within its boundaries prior to January 1,
12 1996, shall authorize legal gaming.

13 (b) No ordinance in effect on January 1, 1996, that
14 authorizes legal gaming within a city, county, or city and
15 county may be amended to expand gaming in that
16 jurisdiction beyond that permitted on January 1, 1996.

17 (c) Except as provided in subdivision (d), this section
18 shall remain operative only until January 1, 2001.

19 (d) With respect to Alameda, Contra Costa, Los
20 Angeles, San Mateo, and Santa Clara Counties only, due
21 the over-concentration of gambling establishments in
22 those counties, this section shall remain operative with
23 respect to those counties until January 1, ~~2003~~ 2005, and
24 as of that date is repealed.

25 *SEC. 14. This act is an urgency statute necessary for*
26 *the immediate preservation of the public peace, health,*
27 *or safety within the meaning of Article IV of the*
28 *Constitution and shall go into immediate effect. The facts*
29 *constituting the necessity are:*

30 *In order to clarify several issues surrounding the*
31 *issuance of gambling licenses by the California Gambling*
32 *Control Commission at the earliest possible time, it is*
33 *necessary that this act take effect immediately.*